



Docket No.: KCC-15,365.1

#13
m26
5-6-03

THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Timothy Ray MARTIN, et al.

Serial No.: 09/748,705

Filing Date: 22 December 2000

Title: HOOK AND LOOP INSERTION
FASTENING SYSTEM

Group No. 3677

Examiner: A. Jackson

PETITION TO WITHDRAW HOLDING OF ABANDONMENT

Box DAC
Assistant Commissioner for Patents
Washington, D.C. 20231

Dear Sir:

In response to the Notice of Abandonment mailed 14 January 2003, Applicants petition for withdrawal of the abandonment as erroneous in light of timely filing of a proper response to the Office Action mailed on 03 June 2002. This Petition is being filed in accordance with 37 C.F.R. §1.181(a).

A non-final Office Action was mailed on 03 June 2002 for the present application. The Office Action set forth a shortened statutory period for reply set to expire three (3) months from the mailing date of the Office Action.

On 30 August 2002, an Amendment and a self-addressed, return-receipt postcard were filed by Certificate of Mailing in response to the Office Action of 03 June 2002.

Applicants then received the self-addressed, return-receipt postcard showing receipt of the Amendment by the Patent and Trademark Office on 04 September 2002.

I hereby certify that this correspondence (along with any paper referred to as being attached or enclosed) is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231 on

January 31, 2003

1/31/03
Date

[Signature]
Signature

On 14 January 2003, a Notice of Abandonment was issued stating that the Amendment had not been received and that the application is abandoned in view of Applicants' failure to timely respond to the Office Action of 03 June 2002.

Enclosed herewith is a copy of the Amendment showing the Certificate of Mailing certifying that the Amendment was mailed to the United States Patent and Trademark Office on 30 August 2002. Also enclosed is a copy of the self-addressed, return-receipt postcard showing transmittal of the Amendment and showing receipt of the Amendment by the Patent and Trademark Office on 04 September 2002.

Applicants timely filed a response to the Office Action of 03 June 2002 in the present application utilizing the Certificate of Mailing procedures. The abandonment is therefore an error and withdrawal of the abandonment in accordance with 37 C.F.R. §1.181(a) and early issuance of the present application is hereby requested.

Since the abandonment of the present application is a result of Patent Office error, no fee is enclosed with this Petition. This Petition is being filed within two months of the Notice of Abandonment in accordance with 37 C.F.R. §1.181(f).

Respectfully submitted,



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THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Timothy Ray MARTIN, et al.

Serial No.: 09/748,705

Filing Date: 22 December 2000

Title: HOOK AND LOOP INSERTION
FASTENING SYSTEM

Group No. 3677

Examiner: A. Jackson

AMENDMENT

Assistant Commissioner for Patents
Washington, D.C. 20231

Dear Sir:

In response to the Office Action mailed 03 June 2002, please amend
the above-identified patent application as follows:

IN THE CLAIMS:

Please replace Claims 1-3, 14-16, and 27 with the following amended
claims:

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enclosed) is being deposited with the United States Postal Service as First Class Mail in an
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Sub D1
1. (Amended) A separable fastening system, comprising:
a loop component including a loop backing and a plurality of loops protruding from it, with a first portion of the loop backing and a second portion of the loop backing attached to one another to form a cavity; and

a hook component including a hook backing and a plurality of hooks protruding from it, wherein a portion of the hook component fits into the cavity of the loop component.

B1
2. (Amended) The fastening system of Claim 1, wherein the cavity is formed by the first portion of the loop backing folded over and attached to the second portion of the loop backing.

3. (Amended) The fastening system of Claim 1, wherein the first portion of the loop backing comprises a first piece of loop backing and the second portion of the loop backing comprises a second piece of loop backing, and the cavity is formed by the first piece of loop backing attached to the second piece of loop backing along more than one edge of each of the first and second pieces of loop backing.

Sub D1
B2
14. (Amended) A separable fastening system, comprising:
a hook component including a hook backing and a plurality of hooks protruding from it, with a first portion of the hook backing and a second portion of the hook backing attached to one another to form a cavity; and

a loop component including a loop backing and a plurality of loops protruding from it, wherein a portion of the loop component fits into the cavity of the hook component.

15. (Amended) The fastening system of Claim 14, wherein the cavity is formed by the first portion of the hook backing folded over and attached to the second portion of the hook backing.

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b2
16. (Amended) The fastening system of Claim 14, wherein the first portion of the hook backing comprises a first piece of hook backing and the second portion of the hook backing comprises a second piece of hook backing, and the cavity is formed by the first piece of hook backing attached to the second piece of hook backing along more than one edge of each of the first and second pieces of hook backing.

b3 Sub D1
27. (Amended) A separable fastening system, comprising:
a first component including a first portion and a second portion attached to one another to form a cavity therebetween; and
a second component including a flat portion that fits into the cavity of the first component, wherein a first surface of the flat portion and the first portion of the first component can be releasably engaged to one another.

No additional fee is due for this Amendment because the number of independent claims remains unchanged and the total number of claims also remains unchanged.

REMARKS

Applicants' undersigned attorney thanks the Examiner for his comments. Applicants respectfully request reconsideration of this patent application, particularly in view of the above Amendment and the following remarks. Currently, Claims 1-42 are pending.

The present invention is directed to a fastening system having a male component and a female component wherein the male component can slide into a cavity in the female component. Hook and loop fasteners located on the inner surface of the cavity of the female component and on a surface of the male component are releasably engageable with one another. This design reduces the likelihood of the fastener inadvertently popping open and also provides a discrete appearance particularly when used in disposable garments such as incontinence wear for children or adults, disposable swimwear, and the like.

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In order to unfasten the fastening system, part of the female component, for example one wall of the cavity, can be peeled back away from the male component, thus allowing the male component to essentially pop out of the cavity. In another embodiment having more enhanced security, the fastening system can be unfastened by peeling part of the female component away from the male component, thus exposing the male component as it was inserted in the cavity. The male component can then be peeled away from a remaining portion of the female component.

Amendment to the Claims

Claims 1-42 have been examined with no claims being allowed. Amended Claims 1-3, 14-16, and 27 are included herein. Marked-up versions of amended Claims 1-3, 14-16, and 27 are included at the end of this document.

Applicants have amended Claims 1-3, 14-16, and 27 to clarify that a cavity is formed between two portions of the female component, as opposed to two independent flaps. Support for this amendment is found on page 4, lines 14-15, and page 7, lines 1-5, of the specification, and in Fig. 1.

No new matter has been added by this amendment.

Claim Rejections - 35 USC §112

The rejection of Claims 6, 19, and 32-35 under 35 USC §112, second paragraph, as being indefinite is respectfully traversed.

Claims 6, 19, and 32 include the phrase "about 180 degrees" to describe how far back a first portion of a hook or loop component can be lifted and folded back. Claims 33-35 include the term "about" to describe ranges of an angle that defines a cavity. The Examiner states that the term "about" is not defined by the claim, and that the specification does not provide a standard for ascertaining the requisite degree. The Examiner further states that one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

Section 2173.05(b) of the MPEP provides that claims are not automatically rendered indefinite under 35 U.S.C. 112, second paragraph, by virtue of the inclusion of terms of degree. *Seattle Box Co. v. Industrial Crating & Packaging, Inc.* 731 F.2d 818, 221 USPQ 568 (Fed. Cir. 1984). This section of the MPEP further

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provides that the determination of indefiniteness in such circumstances depends on whether one of ordinary skill in the art would understand what is claimed, in light of the specification.

Applicants believe that the term "about" is necessary for inclusion in Claims 6, 19, and 32 to provide full protection from potential infringers who might copy all other aspects of the inventions recited in Claims 6, 19, and 32, with the exception of folding back the portion of the fastening component to 179 degrees or 181 degrees to intentionally circumvent infringement liability. Applicants believe that the invention is described in the specification, as well as in the claims, in such a way that one of ordinary skill in the art would understand that the term "about 180 degrees" is used to describe a portion of a hook or loop component that is folded back to such an extent that the component is relatively flat.

Applicants believe that the invention is described in the specification, as well as in the claims, in such a way that one of ordinary skill in the art would understand that the term "about," as used in the claimed ranges, *conceptually* defines the angle that defines the cavity.

Furthermore, in response to the Examiner's assertion that the specification does not provide a standard for ascertaining the requisite degrees, Applicants point out that one of ordinary skill in the art could ascertain the requisite degrees as claimed merely by observing the angles formed, since one of ordinary skill in the art would be aware of the general configurations of 1 degree, 20 degrees, 30 degrees, 45 degrees, and 180 degrees. For a person of ordinary skill in the art to identify any of these angles on sight, it would be appropriate to use the qualifier "about." Additionally, a person skilled in the art would realize that such angles could also be measured using a protractor. In any case, it is Applicants' belief that a person skilled in the art would be reasonably apprised of the scope of the invention in view of the original claims and specification and that the term "about" would not render a person unable to ascertain the scope of the invention.

For at least the reasons given above, Applicants respectfully submit that Claims 6, 19, and 32-35 are not indefinite. Accordingly, Applicants respectfully request reconsideration and withdrawal of this rejection.

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Claim Rejections - 35 USC §102

The rejection of Claims 1-5, 14-18, and 27-31 under 35 USC §102(b) as being anticipated by Armour (U.S. Patent 5,136,759) is respectfully traversed.

Armour discloses a two-part fastening device wherein one part includes two flaps with hook fasteners attached to an inner surface of each flap. A second part includes a length of web material with loop fasteners on both sides. The second part can be fastened between the flaps of the first part.

For a reference to anticipate a claim, the reference must teach each and every element or limitation of the claim. Armour does not teach each and every element or limitation of amended Claims 1, 14, and 27. Applicants' invention as claimed in independent Claims 1, 14, and 27 requires a first portion of the female component to be attached to a second portion of the female component to form the cavity. As explained on page 4, lines 14-15, and page 7, lines 1-5, of the specification of the present invention, and shown in Fig. 1, the cavity is like a pocket, with a top surface of the cavity attached to a bottom surface of the cavity along one or more edges to form an opening into the cavity between the unattached edges.

Armour does not teach a cavity or a pocket formed between the two flaps, but instead shows that the two flaps are attached to one another along only one edge. Thus, the counterpart piece cannot be slid into place between the two flaps but rather must be aligned with each flap individually. By forming a cavity, as taught in the present invention, the counterpart component can be easily slid into the cavity for one-step connection. This easy-fastening feature is particularly suitable for use on garments for children because the fastening can be accomplished quickly and remains securely fastened.

For at least the reasons presented above, Applicants respectfully submit that amended Claims 1, 14, and 27 are not anticipated by Armour. Because Claims 2-13 depend from amended Claim 1, Claims 15-26 depend from amended Claim 14, and Claims 28-42 depend from amended Claim 27, these claims are also not anticipated by Armour. Thus, Applicants respectfully request withdrawal of this rejection.

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Claim Rejections - 35 USC §103

The rejection of Claims 6, 19, and 32-35 under 35 USC §103(a) as being unpatentable over Armour is respectfully traversed.

As explained above, Armour discloses a two-part fastening device including a first component having two flaps and a second component that can be fastened between the flaps of the first component. Armour fails to teach or suggest the formation of a cavity or a pocket between the two flaps. Not only does the structure of the fastening device of Armour differ considerably from the structure of the fastening device of the present invention, but, consequently, the fastening device of Armour also functions completely differently than the fastening device of the present invention. More specifically, since the flaps of the first component of Armour move independently of one another, the second component cannot be slid into place between the two flaps, but instead must be aligned and fastened with each flap as separate steps.

For at least the reasons given above, Applicants respectfully submit that the teachings of Armour fail to teach or suggest Applicants' claimed invention. Accordingly, reconsideration and withdrawal of this rejection is respectfully requested.

The rejection of Claims 7-11, 13, 20-24, 26, 36-40, and 42 under 35 USC §103(a) as being unpatentable over Armour in view of Elsberg (U.S. Patent 6,287,287) is respectfully traversed.

As explained above, Armour teaches a two-part fastening device including a female fastening component made up of two flaps, but fails to teach or suggest a female fastening component having a cavity or a pocket formed between two portions of the component. Armour further fails to teach or suggest a fastening device in combination with an absorbent article.

Elsberg discloses a multi-functional fastening device in combination with an absorbent article. The fastening devices taught by Elsberg include one surface in contact with another surface, without any suggestion of a female component having a cavity or pocket into which a male component can be inserted.

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The fastening devices taught by Armour are intended for use in connecting two lengths of rope, cord, or the like, for example. It is unlikely that a person skilled in the art would consider combining the teachings of Armour with the teachings of Elsberg. Even if Armour and Elsberg were combined, the combination of references still fails to teach or suggest an absorbent garment in combination with a fastening device including a female fastening component having a cavity or a pocket formed between two portions of the component.

For at least the reasons given above, Applicants respectfully submit that the teachings of Armour in view of Elsberg fail to teach or suggest Applicants' claimed invention. Accordingly, reconsideration and withdrawal of this rejection is respectfully requested.

The rejection of Claims 12, 25, and 41 under 35 USC §103(a) as being unpatentable over Armour in view of Lacoursiere et al. (U.S. Patent 5,775,967, hereinafter "Lacoursiere") is respectfully traversed.

As explained above, Armour teaches a two-part fastening device including a female fastening component made up of two flaps, but fails to teach or suggest a female fastening component having a cavity or a pocket formed between two portions of the component. Armour further fails to teach or suggest a fastening device in combination with a swimwear garment.

Lacoursiere discloses a personal floatation device for babies. The device includes Velcro® strips on head support panels and on pant panels for adjustment purposes. The Velcro® strips are simply strips or patches and there is no suggestion to form a cavity or pocket with the Velcro® strips.

As mentioned above, the fastening devices taught by Armour are intended for use in connecting two lengths of rope, cord, or the like. It is unlikely that a person skilled in the art would consider combining the teachings of Armour with the teachings of Lacoursiere. Even if Armour and Lacoursiere were combined, the combination of references still fails to teach or suggest a swimwear garment in combination with a fastening device including a female fastening component having a cavity or a pocket formed between two portions of the component.

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For at least the reasons given above, Applicants respectfully submit that the teachings of Armour in view of Lacoursiere fail to teach or suggest Applicants' claimed invention. Accordingly, reconsideration and withdrawal of this rejection is respectfully requested.

Conclusion

Applicants believe that this case is now in condition for allowance. If the Examiner feels that any issues remain, then Applicants' undersigned attorney would like to discuss the case with the Examiner. The undersigned can be reached at (847) 490-1400.

Respectfully submitted,



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**VERSION WITH MARKINGS TO SHOW CHANGES MADE
IN THE CLAIMS:**

1. (Amended) A separable fastening system, comprising:
a loop component including a loop backing and a plurality of loops protruding from it, with a first portion of the loop backing and a second portion of the loop backing attached to one another to form [forming] a cavity; and
a hook component including a hook backing and a plurality of hooks protruding from it, wherein a portion of the hook component fits into the cavity of the loop component.
2. (Amended) The fastening system of Claim 1, wherein the cavity is formed by [a] the first portion of the loop backing folded over [a] and attached to the second portion of the loop backing.
3. (Amended) The fastening system of Claim 1, wherein the first portion of the loop backing comprises a first piece of loop backing and the second portion of the loop backing comprises a second piece of loop backing, and the cavity is formed by [a] the first piece of loop backing attached to [a] the second piece of loop backing along [at least] more than one edge of each of the first and second pieces of loop backing.
14. (Amended) A separable fastening system, comprising:
a hook component including a hook backing and a plurality of hooks protruding from it, with a first portion of the hook backing and a second portion of the hook backing attached to one another to form [forming] a cavity; and
a loop component including a loop backing and a plurality of loops protruding from it, wherein a portion of the loop component fits into the cavity of the hook component.

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15. (Amended) The fastening system of Claim 14, wherein the cavity is formed by [a] the first portion of the hook backing folded over [a] and attached to the second portion of the hook backing.

16. (Amended) The fastening system of Claim 14, wherein the first portion of the hook backing comprises a first piece of hook backing and the second portion of the hook backing comprises a second piece of hook backing, and the cavity is formed by [a] the first piece of hook backing attached to [a] the second piece of hook backing along [at least] more than one edge of each of the first and second pieces of hook backing.

27. (Amended) A separable fastening system, comprising:

a first component including a first portion and a second portion attached to one another to form [with] a cavity therebetween; and

a second component including a flat portion that fits into the cavity of the first component, wherein a first surface of the flat portion and the first portion of the first component can be releasably engaged to one another.

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GAU 3677

S/N 09/748,705

Date: 02-07-03

To: Group Directors/HSAEs

From: Office of Initial Patent Examination

Subject: Miscellaneous Papers

The attached papers belong in files that are housed at the warehouse. **PLEASE do not send any papers to the warehouse or to our office for processing**, but request the files from the warehouse and take the appropriate action.

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Assistant Commissioner for Patents
Washington, D.C. 20231

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Please affix the USPTO receipt stamp hereon so that we may be informed
of the receipt of the enclosed papers:

- Amendment (11 pages)

All by Certificate of Mailing on 30 August 2002

Applicants: Timothy Ray MARTIN et al.
Serial No.: 09/748,705
Filing Date: 22 December 2000
Title: HOOK AND LOOP INSERTION FASTENING SYSTEM

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